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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/636,178	08/07/2003	Richard J. Morris	1915.24US03	1767

7590 12/29/2004  
Patterson, Thunte, Skaar & Christensen, P.A.  
4800 IDS Center  
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EXAMINER

LU, JIPING

ART UNIT PAPER NUMBER

3749

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/636,178	<b>Applicant(s)</b> MORRIS ET AL.	
	<b>Examiner</b> Jiping Lu	<b>Art Unit</b> 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 4/6/04 & 9/30/04.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 29-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 45-52 is/are allowed.
- 6) ☒ Claim(s) 29-44, 53 and 55-66 is/are rejected.
- 7) ☒ Claim(s) 54 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. Claim 62 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. Claim 62 recites the limitation "said top panel air flow across section and said ventilating portion air flow cross section" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 42 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Sells (U. S. Pat. 5,704,834).

Sells shows a venting device for a structure comprising an elongate top panel portion 10, a pair of opposing ventilating portions 24, 26 formed from three-ply material, air passages 32 and means 38 for filtering air passing through air passages same as claimed.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sells (U. S. Pat. 5,704,834) in view of Morris et al. (U. s. Pat. 5,934,995).

The venting device of Sells as above includes all that is recited in claim 43 except for the top panel portion is formed from three-ply material. Morris et al. teach a ridge vent with top panel portion 22 formed from three-ply material same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the top panel portion of venting device of Sells to include three-ply material as taught by Morris et al. in order to improve the venting efficiency.

7. Claims 53, 55-60, 61, 63-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morris et al. (U. s. Pat. 5,934,995) in view of Coulton et al. (U. S. Pat. 6,308,472).

Morris et al. shows a venting device for a structure comprising an elongate top panel portion 22 formed from three-ply material and having an interior surface and defining a multiplicity of discrete top panel air passages, a pair of opposing ventilating portions 34 formed from three-ply same as claimed. Patent to Coulton et al teaches a roof ridge vent with air filter 44 located interior to the plurality of flow passages same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the venting device of Morris et al. with an air filter as taught by Coulton et al. in order to improve the air condition.

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8. Claims 53,55-60, 61, 63-66 are rejected under 35 U.S.C. 103(a) as being unpatentable Morris et al. (U. s. Pat. 5,934,995) in view of Waggoner (U. S. Pat. 5,022,314)

Morris et al. shows a venting device for a structure comprising an elongate top panel portion 22 formed from three-ply material and having an interior surface and defining a multiplicity of discrete top panel air passages, a pair of opposing ventilating portions 34 formed from three-ply same as claimed. Patent to Waggoner teaches a roof ridge vent with air filter 62 located interior to the plurality of flow passages same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the venting device of Morris et al. with an air filter as taught by Waggoner in order to improve the air condition.

### ***Double Patenting***

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 29-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,450,882. Although the conflicting claims are not identical, they are not patentably distinct from each other because

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both claim a venting device with elongate top panel portion and ventilation portions constructed from a three-ply material and air filtering means for filtering an area for air flow at least equal to the area of the interior surface defined between the pair of ventilating portions.

11. Claims 29-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,623,354. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim a venting device with elongate top panel portion and ventilation portions constructed from a three-ply material and air filtering means for filtering an area for air flow at least equal to the area of the interior surface defined between the pair of ventilating portions.

#### *Allowable Subject Matter*

12. Claims 45-52 are allowed.

13. Claim 54 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claim 62 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### *Response to Arguments*

15. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

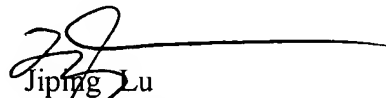
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 703-308-2354. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703 308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jiping Lu  
Primary Examiner  
Art Unit 3749

J. L.